IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 130 of 2007
In
COMPANY PETITION No. 4 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASSET RECONSTRUCTION CO.[INDIA] LTD. - Applicant(s)

Versus

O.L. OF ELB SCHLIFF [INDIA] LTD. & 2 - Respondent(s)

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Appearance :
MR BH BHAGAT for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 16/03/2007

ORAL JUDGMENT

Present application has been filed by the ASSET RECONSTRUCTION CO.[INDIA] LTD. as the Chairman of the Sale Committee to disburse and pay an amount of Rs.11.05 crores realized from the sale of the assets and properties of M/s ELB Schliff (India) Ltd.

2. It is to be noted that pursuant to the order passed by this Court dated 28-2-2007, sale has been confirmed and the amount has been realized. Sale Committee was constituted earlier only with a view to sell the properties of the company in liquidation and once the assets and the properties of the company in liquidation are sold, the function of the Sale Committee is over and the Sale Committee is to be dissolved. Sale Committee is not required to disburse and/or distribute the amount realized by selling the properties of the company in liquidation.

3. Under the circumstances, prayer of the applicant as a Chairman of the Sale Committee to disburse and pay the amount already realized amongst the secured creditors and workmen cannot be granted. Under the provisions of Companies Act, it is the function of the Official Liquidator. It appears that the amount realized by selling the properties of the company in liquidation is lying with the applicant. The applicant is therefore, directed to deposit the said amount with the Official Liquidator within a period of one week form today. Thereafter, it will be open for the applicant as an individual secured creditor to move an appropriate application for disbursement of the amount, in which an appropriate order

can be passed in accordance with law and on merits after heraing the other secured creditors and workmen as well as the Official Liquidator.

(M.R. SHAH, J.)

shekhar